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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,974	02/17/2004	Gary Kiwimagi	15007.915US02	1673
43430 7590 03/04/2008 BERENBAUM, WEINSHIENK & EASON, P.C 370 17TH STREET SUITE 4800 DENVER, CO 80202				
EXAMINER				
GELAGAY, SHEWAYE				
ART UNIT		PAPER NUMBER		
2137				
MAIL DATE		DELIVERY MODE		
03/04/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,974

Applicant(s)

KIWIMAGI ET AL.

Examiner

SHEWAYE GELAGAY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date 10/22/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/28/07 has been entered.
2. Claims 1-20 are pending.

Response to Arguments

3. Applicant's arguments December 28, 2007 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 8-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 8-11 directed towards a computer program product encoding computer programs wherein the product is not defined by the specification as being a storage medium. Applicant's specification on page 3, paragraph

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7 teaches "computer program product may be provided in a computer data signal embodied in a carrier wave". A "carrier wave" embodying functional descriptive material is neither a process nor a product (i.e., a tangible "thing") and therefore does not fall within one of the four statutory classes of § 101. Rather, "carrier wave" is a form of energy, in the absence of any physical structure or tangible material.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-9, 11-13 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alegree et al. (hereinafter Alegree) US Patent Number 6,199,113 in view of Kobita et al. (hereinafter Kobita) US 2006/0005237.

As per claims 1, 8 and 12:

Alegree teaches a method comprising: generating session information at the control node (figure 2, 210) in response to a request from a client (figure 2, 110) to access a system node (figure 2, 138) and sending the session information to the client, the system node, and a data node if the client and system node satisfy at least one condition for accessing each other; (col. 4, lines 17-23; when the user wants to access trusted network 138, the user sends a request from client browser 110, ... web host stores the session key at client browser and also sends trusted network) receiving at

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the data node a request from the client to access the system node; (col. 4, lines 31-39 and lines 43-48; access server verifies that the network request packet came from web host, extracts the session key from the network request packet) and establishing a first secure authenticated connection between the client and the system node via the data node based at least in part of the session information. (col. 4, lines 48-67; ...if the session key is still valid, access server performing the request...access server performs the request)

Algree does not explicitly disclose a request from the system node to access the client. Kobata in analogous art, however, teaches a request from the system node to access the client. (page 8, pp. 89; to exchange digital content with the receiving system, a user of the sending system initiates secure mail application and establishes a connection with the enterprise secure server). Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Algree with Kobata in order enable a secure exchange of an electronic document between the sending system and the receiving system. (page 7, pp. 85; Kobita)

As per claim 2:

The combination of Algree and Kobita teaches all the subject matter as discussed above. In addition, Algree further discloses receiving at the control node a request from the client for the session information. (col. 7, lines 2-43)

As per claims 3, 9 and 13:

The combination of Algree and Kobita teaches all the subject matter as discussed above. In addition, Algree further discloses prior to receiving the request from the client to access the system node, registering the system node with the control node. (col. 4, lines 32-47)

As per claims 4 and 19-20:

The combination of Algree and Kobita teaches all the subject matter as discussed above. In addition, Algree further discloses prior to receiving the request from the client to access the system node, providing a list of registered system nodes to the client, wherein the system node is selected at the client from the list of registered system nodes. (col. 4, lines 55-67; col. 7, lines 2-65)

As per claims 5 and 17-18:

The combination of Algree and Kobita teaches all the subject matter as discussed above. In addition, Algree further discloses notifying the system node when a message is received from the client at the data node. (col. 4, lines 55-67; col. 8, lines 28-44)

As per claims 6-7 and 16:

The combination of Algree and Kobita teaches all the subject matter as discussed above. In addition, Algree further discloses establishing a second secure authenticated connection between the system node and the data node. (col. 4, lines 55-67)

As per claim 11:

The combination of Algree and Kobita teaches all the subject matter as discussed above. In addition, Algree further discloses wherein a computer process at the data node further comprises: notifying the system node when a message is received from the client at the data node; (col. 4, lines 32-67) establishing a second secure authenticated connection between the system node and the data node; (col. 4, lines 32-67) and sending the message from the data node over the second secure authenticated connection between the system node and the data node. (col. 4, lines 32-67)

2. Claims 10, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Algree et al. (hereinafter Algree) US Patent Number 6,199,113 in view of Kobita et al. (hereinafter Kobita) US 2006/0005237 and further view of Araujo US 7,275,113. As per claims 10 and 14-15:

The combination of Algree and Kobita teaches all the subject matter as discussed above. Both references do not explicitly disclose wherein the computer process at the control node further comprises updating a client database at the control node with a dynamic network address for the system node on a recurring basis. Araujo in analogous art, however, discloses wherein the computer process at the control node further comprises updating a client database at the control node with a dynamic network address for the system node on a recurring basis. (col. 8, lines 41- col. 9, line 31) Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the method disclosed by Algree and Kobita with Araujo in order to provide a system with a controller that enables efficient establishment of a

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communication path via the communication network without requiring the communicating devices to have static address. (col. 10, lines 39-44; Araujo)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWAYE GELAGAY whose telephone number is (571)272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. G./

Examiner, Art Unit 2137

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2137

